

August 12, 2005

Jeffrey Kowalski

**Re: Acacia Media Technologies Corporation DMT Patent Litigation**

Dear Mr. Kowalski,

As you know from our prior correspondence, Acacia is a publicly traded company (Nasdaq: ACTG) that owns five U.S. Patents (Nos. 5,132,992; 5,253,275; 5,550,863; 6,002,720; 6,144,702) and thirty-one foreign patents covering the transmission and receipt of digital audio and video content via various means, including the Internet (*e.g.*, streaming and downloading) (referred to as “DMT®” technology). Acacia has entered into hundreds of licenses with companies like yours for use of Acacia’s DMT technology.

We are writing to provide you with notice of the recent consolidation of all pending DMT patent litigation cases to the U.S. District Court for the Northern District of California and the reopening of the Markman portion of the litigation. All of those pending cases will now move forward.

Our records indicate that you have not yet entered into a license to use Acacia’s DMT technology. If you do not enter into such a license, we are also informing you that Acacia intends to enforce its DMT patents against your company following the successful completion of the presently pending DMT patent litigation.

As you may know, once a potential infringer has actual notice of another’s patent rights, the potential infringer has an affirmative duty to exercise “due care” to determine whether or not the potential infringer may be infringing. (*See, Underwater Devices, Inc. v. Morrison-Knudsen Co.*, 717 F.2d 1380 (Fed. Cir. 1983); *Knorr-Bremse Systeme Fuer Nutzfahrzeuge GmbH v. Dana Corp.*, 383 F.3d 1337 (Fed. Cir. 2004)). Merely waiting for the outcome of Acacia’s pending DMT patent litigation without seeking the advice of competent patent counsel as to whether your activities infringe the DMT patents may not satisfy this duty.

Your failure to satisfy this duty could result in a finding of willful patent infringement and a court could award Acacia treble, or 3 times, the amount of its actual damages. Actual damages can include your company’s infringing activities for up to six (6) years prior to the date on which Acacia files its lawsuit against your company.

If you are interested in obtaining a DMT license from Acacia, please visit our website at [www.acaciatechnologies.com](http://www.acaciatechnologies.com) and download a copy of our current license agreement for your type of company. To locate the appropriate license agreement from our homepage, please select "Technology," then select "DMT Technology," and then follow the links.

Our DMT royalty rates have increased, and will continue to increase over time. You should expect another DMT royalty rate increase after **September 15, 2005**, so you will need to enter into a DMT license agreement with Acacia on or before that date to receive our current royalty rates. Your damages will continue to accrue and, without a license, Acacia will seek to collect the maximum amount permitted by law once the pending litigation is resolved in Acacia's favor.

Please contact us should you have any questions.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Karlton Butts", written in a cursive style.

Karlton Butts